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Attorneys for NATIONAL SURETY
CORPORATION

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

KUNDE ENTERPRISES, INC.; VINTAGE
WINE ESTATES, INC.,

Plaintiff,

v.

NATIONAL SURETY CORPORATION;
CERTAIN UNDERWRITERS AT LLOYD'S
LONDON; RSA INSURANCE GROUP;
LIBERTY SPECIALTY MARKETS
INSURANCE GROUP; NAVIGATORS
UNDERWRITING AGENCY LIMITED;
BRIT GLOBAL SPECIALTY; TRAVELERS
MARINE CARGO,

Defendants.

Case No.

**NOTICE OF REMOVAL PURSUANT TO 28
U.S.C §§1332, 1441 BROUGHT BY ALL
DEFENDANTS TO THIS ACTION**

**TO THE CLERK OF THE UNITED STATES DISTRICT COURT, NORTHERN
DISTRICT OF CALIFORNIA:**

PLEASE TAKE NOTICE that each and every Defendant, including NATIONAL SURETY CORPORATION ("National Surety") CERTAIN UNDERWRITERS AT LLOYD'S LONDON ("Underwriters"), RSA INSURANCE GROUP ("RSA"), LIBERTY SPECIALTY MARKETS INSURANCE GROUP ("Liberty"), NAVIGATORS UNDERWRITING AGENCY LIMITED ("Navigators"); BRIT GLOBAL SPECIALTY ("Brit") and TRAVELERS MARINE CARGO (Travelers") hereby jointly removes and jointly consents to the removal to this Court of

the state court action described below:

1. This is an insurance coverage and bad faith action originally filed in the Superior Court of the State of California in and for the County of Sonoma and entitled KUNDE ENTERPRISES, INC.; VINTAGE WINE ESTATES, INC., Plaintiffs, v. NATIONAL SURETY CORPORATION; CERTAIN UNDERWRITERS AT LLOYD'S LONDON; RSA INSURANCE GROUP; LIBERTY SPECIALTY MARKETS INSURANCE GROUP; NAVIGATORS UNDERWRITING AGENCY LIMITED; BRIT GLOBAL SPECIALTY; TRAVELERS MARINE CARGO, Defendants, Case No.SCV-265061.

2. Plaintiff Kunde Enterprises, Inc. ("Kunde") alleges three causes of action against National Surety for (1) Breach of Contract; (2) Bad Faith; and (3) Declaratory Relief. See, Complaint ¶¶ 59-72.

3. Plaintiff Vintage Wine Estates ("VWE") alleges three causes of action against Underwriters, RSA, Liberty, Navigators, Brit and Travelers (collectively, the "London Insurers) for (1) Breach of Contract; (2) Bad Faith; and (3) Declaratory Relief. See, Complaint ¶¶ 73-86.

4. National Surety was personally served with the complaint and the summons from the state court on or about September 16, 2019. The state docket indicates that National Surety was the first Defendant served. The Sonoma County Superior Court's online portal indicates that five of the other Defendants were personally served later on September 20, 2019 and the sixth Defendant was served via substituted service on October 1, 2019. Therefore, this Notice is timely as it was filed within 30 days of service on any Defendant, and within one year of the filing of the Complaint. 28 U.S.C. § 1446(b).

5. A true and correct copy of the Complaint served on Defendants is attached hereto as Exhibit A. True and correct copy of the summons served is attached hereto as Exhibit B. A true and correct copy of the Notice to Plaintiff regarding the setting of a Case Management Conference for January 14, 2020 is attached hereto as Exhibit C. A true and correct copy of National Surety's answer is attached hereto as Exhibit D. These exhibits constitute all of the existing process, pleadings or orders served on or known to Removing Defendants as of the filing of this Notice of Removal.

INTRADISTRICT ASSIGNMENT

6. Assignment to the San Francisco Division of this Court is proper as the action was pending in Sonoma County Superior Court.

JURISDICTION

7. This action may be removed to this Court pursuant to 28 U.S.C. § 1441(a) & (b) because this action is a civil action of which this Court has original jurisdiction under 28 U.S.C. § 1332(a), in that the matter in controversy exceeds the sum of \$75,000, exclusive of interest and costs, and Plaintiffs and all Defendants are citizens of different states or countries.

8. The matter in controversy exceeds the sum of \$75,000, exclusive of interest and costs.

9. The complaint alleges that Plaintiff Kunde is a family owned winery and that its insurer, National Surety, breached the insurance contract between it and Kunde and committed bad faith by failing to pay on over 7 million dollars of covered property damage claims caused by the October, 2017 Sonoma wildfires. Complaint at ¶¶ 26-30, 35-37.

10. The complaint further alleges that VWE is a collection of vintner family-owned winery estates and brands and that its insurers, the London Insurers, breached their separate insurance contract and committed bad faith for failing to pay on over 12 million dollars of covered property damage claims caused by the October, 2017 Sonoma wildfires. Complaint at ¶52.

11. Because Kunde sues only National Surety and VWE sues only the London Insurers, VWE has no viable claim against National Surety because VWE is not an insured under the National Surety's first party policy.

12. National Surety's first party policy was issued to Kunde, not VWE. Accordingly, Kunde has improperly joined VWE and the London Insurers in violation of Federal Rules of Civil Procedure, Rules 20 and 21. National Surety concurrently files a motion to sever VWE and the London Insurers from this action.

13. For the purpose of removal jurisdiction, a corporation is deemed a citizen of the state where it is incorporated and of the state where its principal place of business is located.

14. National Surety is an Illinois corporation, with its principal place of business in Illinois.

15. Kunde is a corporation formed and existing under the laws of the State of California with its principal place of business in the State of California. Complaint ¶ 1

16. VWE is a corporation formed and existing under the laws of the State of California with its principal place of business in State of California. Complaint ¶ 2.

17. The policy issued to VWE (the “London Policy”) (attached as Exhibit 2 to the Complaint) provides that syndicate members at Lloyd’s of London, subscribed to the policy number B1262SM0419217, which courts in the past have indicated may be likened to an unincorporated association. *See e.g. Certain Underwriters at Lloyd's London v. Nance*, No. CIV 04-937 JB/WDS, 2006 U.S. Dist. LEXIS 95647, at *23-25 (D.N.M. Aug. 23, 2006).

18. More recently, courts have regarded a Lloyd's syndicate “as an alien corporation, incorporated under the laws of England with its principal place of business in London, England.” *Certain Underwriters at Lloyd's v. Mack Mgmt., LLC*, Civil Action No. 10-cv-00905-PAB, 2010 U.S. Dist. LEXIS 49632, at *6 (D. Colo. Apr. 26, 2010) (citing *Soc’y of Lloyd's v. Reinhart*, 402 F.3d 982, 1002-03 (10th Cir. 2005) (Tenth Circuit concluded “under the Lloyd's Act of 1871, the company was incorporated” and there is no “question regarding Lloyd's place of incorporation (it is duly incorporated under the laws of England). Similarly, it maintains its principal place of business in London, England.”)).

19. Defendant Liberty Specialty Markets Insurance Group, Syndicate 4472 is a foreign insurance syndicate organized under the laws of the United Kingdom with its principal place of business in the United Kingdom. The Managing Agent for Syndicate 4472 is Liberty Managing Agency Limited, which provides 100% of the capacity and the management of Syndicate 4472, is a company registered in England and Wales and has its principal place of business in the United Kingdom. The Managing Agent is wholly owned by Liberty Mutual Group Incorporated, corporation formed and existing under the laws of the State of Massachusetts, with its principal place of business in Boston.

20. Defendant Navigators Underwriting Agency Limited, Syndicate 1221, is a foreign

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insurance syndicate organized under the laws of the United Kingdom with its principal place of business in the United Kingdom. Navigators Underwriting Agency Limited is the Managing Agent for Syndicate 4472, which is organized under the laws of the United Kingdom and has its principal place of business in the United Kingdom. It provides 100% of the capital to Syndicate 4472.

21. Brit Global Specialty, Syndicate 2987 is a foreign insurance syndicate, organized under the laws of the United Kingdom with its principal place of business in the United Kingdom. Its Managing Agent is Brit Syndicates Limited, which is organized under the laws of the United Kingdom and has its principal place of business in the United Kingdom.

22. Travelers Marine Cargo, Syndicate 5000, is a foreign insurance syndicate, organized under the laws of the United Kingdom with its principal place of business in the United Kingdom. The Syndicate is wholly-owned by Travelers Companies, Inc., which is a publicly owned company incorporated in Minnesota with its principal place of business in the United Kingdom.

23. The Certain Underwriters at Lloyd's London alleged in the complaint and subscribing to the policy number B1262SM0419217, are the Lloyd syndicates Liberty Specialty Markets Insurance Group, Navigators Underwriting Agency Limited, Brit Global Specialty and Travelers Marine Cargo, which have citizenship as described above.

24. Defendant RSA Insurance Group, plc, is a private limited company of the United Kingdom, organized under the laws of the United Kingdom with its principal place of business in the United Kingdom.

25. Thus, there is complete diversity of citizenship between the Plaintiffs and the Defendants. See 28 U.S.C. § 1332(c).

26. This Notice of Removal complies with all applicable Federal Rules of Civil Procedure and Local Rules. Defendants attached to this Notice, copies of all process, pleadings, and orders served on it in the state court action, as required by 28 U.S.C. §1446.

27. Defendants will also promptly serve Plaintiff's counsel and file with the Clerk of the Sonoma County Superior Court of the State of California a "Notice to Adverse Party of Removal to Federal Court" pursuant to 28 U.S.C. § 1446(d), which attaches as an exhibit this Notice of

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Removal with exhibits. See, 28 U.S.C. § 1446(d).

WHEREFORE, Defendants jointly and through their counsel, respectfully gives notice that the above-captioned action is removed to this Court from the Superior Court of the State of California, County of Sonoma.

Dated: October 16, 2019

MOUND COTTON WOLLAN & GREENGRASS LLP

By: /s/Melissa Dubbs
Jonathan Gross
Melissa A. Dubbs
Attorneys for Defendant
NATIONAL SURETY CORPORATION

Dated: October 16, 2019

GIBSON ROBB

By: Geoffrey Robb
Geoffrey Robb
Attorneys for Defendants
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I, Melissa Dubbs, am the ECF user whose credentials were utilized in the electronic filing of this document. In accordance with N.D. Cal. Civil Rule 5-1(i)(3), I hereby attest that Geoffrey Robb concurred in the filing of this document.

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